IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4340 OF 1993

Shri Dandu Gulam Mohammad Quasim,)
Age about 43 years, Occupation)
At present Nil, R/at 383, Sahar)
Peth, Solapur - 413 005.....)... Petitioner.

Versus

1) Panvel Education Society,)
Panvel, Dist. Raigad - 410 206)
(Through its Secretary))
2) The Presiding Officer,)
School Tribunal, Pune)
Region, 17, Dr.Ambedkar Road,)
Pune - 411 001. .. .)... Respondents.

Mr. N. V. Bandiwadekar for the Petitioner.
Mr. Y. F. Moman for Respondent No.1.

CORAM : S. A. BOBDE, J.

DATED : JANUARY 20, 2005.

JUDGMENT :

The petitioner, whose services as the Assistant

Teacher at Panvel Education Society, Panvel, were terminated by the respondent, has challenged the order of the School Tribunal. By the impugned order the Tribunal has held that the petitioner is not entitled to reinstatement inspite of having come to the conclusion that the services have been terminated illegally and maliciously.

2. The petitioner was appointed as an Assistant Teacher on 15th June, 1981. He last worked at Anglo Urdu High School, Barapada, Panvel. The respondent Management issued a charge sheet to the petitioner. An inquiry was held and in pursuance thereof his services were terminated by order dated 3rd March, 1990 with effect from 3rd March, 1990.

3. In appeal against the termination, the Tribunal found that only one member of the Inquiry Committee and that too the one nominated by the Management decided to terminate the petitioner’s services while the other two members exonerated the petitioner from all charges. It, therefore, came to the conclusion that the termination of the petitioner’s services cannot be said to be the result of the decision of the Inquiry Committee.

4. The respondent Society has not challenged the findings of the School Tribunal in this regard. The Tribunal, however, then observed as follows:

> "15. If the appellant is reinstated his future will be spoiled as the Management has bent upon to victimise him. Therefore, it is interest of the appellant himself that he will not be reinstated but in lieu of reinstatement he should be awarded other benefits which he is entitled under the provisions of the act."

5. This reasoning is curious and thoroughly untenable. It is clear that if the Tribunal was of the view that the petitioner’s services have been illegally terminated then it ought to have reinstated the petitioner with backwages having regard to the circumstances of the case.

6. Reliance by the Tribunal on Section 11(2) (E) and (F) of the Maharashtra employees of Private Schools (Conditions of Service) Regulation Act, 1977 is also misplaced.

7. The order of the Tribunal suffers from the error

of law apparent on the face of the record and is also perverse and therefore liable to be set aside. In the circumstances, the impugned order of the Tribunal, to the extent that it refuses the reinstatement, is hereby set aside and the respondent No.1 is hereby directed to reinstate the petitioner with backwages. Rule is, accordingly, made absolute with costs.

Sd/-

S. A. BOBDE, J.

TRUE COPY

(A. M. TAILOR)
Personal Assistant to the
Hon’ble Shri Justice S.A.Bobde.